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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/824,493      | 04/02/2001  | Timothy G. Curay     | SPL-32              | 9371             |

7590 07/25/2006

INTELLECTUAL PROPERTY LAW DEPARTMENT  
SQUARE D COMPANY  
1415 SOUTH ROSELLE ROAD  
PALATINE, IL 60067-7399

EXAMINER

JACOBS, LASHONDA T

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|          | 2157         |

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/824,493             | CURRAY ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | LaShonda T. Jacobs     | 2157                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on May 1, 2006.
- 2a)  This action is FINAL. 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-41 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-41 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Amendment***

This is a Final Office Action in response to Applicants' Amendment/Request for Reconsideration filed on May 1, 2006. Claims 1-41 are presented for further examination.

#### **¶ 7.62 Affidavit or Declaration Under 37 CFR 1.131: Ineffective, Diligence Lacking**

1. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Forth reference to either a constructive reduction to practice or an actual reduction to practice.

The evidence submitted does not show a timeline between November 28, 2000 and the filing date of the application "April 2, 2001".

#### ***II. Reduction to Practice***

2. Applicant attempts to establish prior invention by showing reduction to practice of the invention prior to the November 28, 2000, the effective filing date of Forth.

In paragraph 2-3 of the affidavit, applicant refers to Ethernet Communications Card Design Specification written prior to the critical date which applicant alleges amounts to a reduction to practice of the invention. In particular, paragraph 2 states "Exhibit A is a redacted copy of an ECC Design Specification which was prepared prior to November 28, 2000".

Proof of actual reduction to practice requires a showing that the apparatus existed and worked for its intended purpose. A written description does not constitute an actual reduction to practice. Furthermore only the filing of a US patent application which complies with the

disclosure requirement of 35 USC 112 constitutes a constructive reduction to practice. A written description, no matter how complete, which has not been made the subject of a US patent application does not qualify as reduction to practice.

3. Accordingly, applicant has not established prior invention. The rejection is maintained.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosner et al (hereinafter, “Rosner”, US Pat. No. 6,298,376) in view of Forth et al (hereinafter, “Forth”, U.S. Pat. No. 6,961,641).

As per claim 1, Rosner discloses an Ethernet communications system for a power monitoring system, said Ethernet communications system comprising an Ethernet communication device operative in association with a power monitoring device, said Ethernet communications device including:

- a processor capable of functioning as a master device (col. 2, lines 45-53 and col. 3, lines 27-40); and

- a communications interface capable of gathering, under control of said processor real-time information from one or more slave devices (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26).

However, Rosner does not explicitly disclose:

- said processor and said communications interface further being operative for presenting said real-time information in a format useable by Hypertext Markup Language HTML pages.

Forth discloses a power management for an electrical power distribution system including:

- said processor and said communications interface further being operative for presenting said real-time information in a format useable by Hypertext Markup Language HTML (XML) pages (col. 10, lines 27-39, col. 21, lines 7-34 and col. 22, lines 40-51).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by using XML format to transmit real time information thus allowing a user to view real time profiles or graphs and other monitored data directly from the Intelligent Electronic Devices (IED) in real time thereby providing users with power reliability data in a timely and efficient manner.

As per claim 9, Rosner discloses an industrial power metering system comprising:

- a power monitoring device (abstract and col. 2, lines 45-53);
- gathering real-time information from said power monitoring device (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26);
- dynamically gathering, formatting and verifying real-time information from the power monitoring device (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26).

However, Rosner does not explicitly disclose:

- an Ethernet communications device operatively coupled with said power monitoring device;
- said Ethernet communications device including a processor and a communications interface; and
- a web server capable of communicating through said communications interface.

Forth discloses a power management for an electrical power distribution system including:

- an Ethernet communications device (IED) operatively coupled with said power monitoring device (col. 9, lines 34-48 and col. 11, lines 31-49);
- said Ethernet communications device (IED) including a processor and a communications interface (col. 9, lines 34-48 and col. 11, lines 31-49); and
- a web server capable of communicating through said communications interface (col. 12, lines 19-35).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by including a HTTP server and IED thus allowing a user/client to connect to the server to in order to communicate and receive real time information from the IED in a timely and efficient manner.

As per claims 17 and 31, Rosner discloses an Ethernet communications method for a power monitoring system, said method comprising:

- gathering real-time information from said power monitoring device (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26).

However, Rosner does not explicitly disclose:

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- presenting said real-time information in a format useable by Hypertext Markup Language pages.

Forth discloses a power management for an electrical power distribution system including:

- presenting said real-time information in a format useable by Hypertext Markup Language (XML) pages (col. 10, lines 27-39, col. 21, lines 7-34 and col. 22, lines 40-51).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by using XML format to transmit real time information thus allowing a user to view real time profiles or graphs and other monitored data directly from the IED in real time thereby providing users with power reliability data in a timely and efficient manner.

As per claim 24, Rosner discloses an industrial power metering method comprising.

- monitoring power (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26); and
- gathering real-time information from said power monitoring (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26);

However, Rosner does not explicitly disclose:

- dynamically gathering, formatting, verifying and communicating real-time information from the power monitoring device in a format usable by HTML pages.

Forth discloses a power management for an electrical power distribution system including:

- dynamically gathering, formatting, verifying and communicating real-time information from the power monitoring device in a format usable by HTML (XML) pages (col. 10, lines 27-39, col. 21, lines 7-34 and col. 22, lines 40-51).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by using XML format to transmit real time information thus allowing a user to view real time profiles or graphs and other monitored data directly from the IED in real time thereby providing users with power reliability data in a timely and efficient manner.

As per claim 38, Rosner discloses an Ethernet communications card apparatus for a power monitoring device, said Ethernet communications card comprising;

- a processor capable of functioning as a master device (col. 2, lines 45-53 and col. 3, lines 27-40);
- a communications interface capable of gathering, under control of said processor real-time information from one or more slave devices (col. 1, lines 60-61, col. 2, lines 45-53 and col. 3, lines 21-26).

However, Rosner does not explicitly disclose:

- said processor and said communications interface being operative for presenting said real-time information in a format useable by Hypertext Markup Language (HTML) pages.

Forth discloses a power management for an electrical power distribution system including:

- said processor and said communications interface being operative for presenting said real-time information in a format useable by Hypertext Markup Language (HTML) (XML) pages (col. 10, lines 27-39, col. 21, lines 7-34 and col. 22, lines 40-51).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by using XML format to transmit real time information thus allowing a user to

view real time profiles or graphs and other monitored data directly from the IED in real time thereby providing users with power reliability data in a timely and efficient manner.

As per claims **2, 10, 18, 25** and **32**, Rosner discloses wherein said processor is further capable of:

- functioning as a slave device (col. 2, lines 45-53).

As per claims **3, 11, 19, 26** and **33**, Rosner discloses:

- wherein said processor and said slave device are coupled, by said communications interface, in a daisy chain and wherein said Ethernet communications device is capable of using any of a plurality of protocols for either full duplex or half duplex communications, including SyMax, Modbus and Jbus (col. 2, lines 45-53 and col. 3, lines 4-13).

As per claims **4, 12, 20, 27** and **34**, Rosner discloses the invention substantially as claims discussed above.

However, Rosner does not explicitly disclose:

- a server coupled with said communications interface, said server operating for sending data to a browser for dynamically formatting and verifying real-time data gathered by said processors and communications interfaces using JavaScript and VB script.

Forth discloses a power management for an electrical power distribution system including:

- a server coupled with said communications interface, said server operating for sending data to a browser for dynamically formatting and verifying real-time data gathered by said processors and communications interfaces using JavaScript and VB script (col. 10, lines 27-39, col. 21, lines 7-34 and col. 22, lines 40-51).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by using XML format to transmit real time information thus allowing a user to view real time profiles or graphs and other monitored data directly from the IED in real time thereby providing users with power reliability data in a timely and efficient manner.

As per claims **5, 21, 28 and 35**, Rosner discloses the invention substantially as claims discussed above.

However, Rosner does not explicitly disclose:

- a server operatively coupled with said communications interface, and further including a web browser capable of accessing said server and at least one processor in communication with said server, said web browser generating a login, and said processor responding to said login by generating an access token for said browser for permitting access by said browser for a predetermined amount of time.

Forth discloses a power management for an electrical power distribution system including:

- a server operatively coupled with said communications interface, and further including a web browser capable of accessing said server and at least one processor in communication with said server, said web browser generating a login, and said processor responding to said login by generating an access token for said browser for permitting access by said browser for a predetermined amount of time (col. 15, lines 60-67).

Given the teaching of Blackett, it would have been obvious to one of ordinary skill in the art to modify Rosner by including a HTTP server that allows the exchange of files with encryption

or digital certificates to provide a user/client access the monitoring device in order to provide security to the overall system.

As per claims **6, 14, 22, 29, 36** and **39**, Rosner discloses the invention substantially as claims discussed above.

However, Rosner does not disclose:

- a single physical interface chip capable of supporting dual physical Ethernet media types.

Forth discloses a power management for an electrical power distribution system including:

- a single physical interface chip capable of supporting dual physical Ethernet media types (col. 5, lines 57-67 and col. 6, lines 1-18).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by including IED to monitor and transmit real time information to a user in a timely and efficient manner.

As per claims **7, 15, 23, 30, 37** and **40**, Rosner discloses the invention substantially as claims discussed above.

However, Rosner does not explicitly disclose:

- a fast Ethernet transceiver which provides a media independent interface for attachment to a 10/100 media access controller, and is capable of directly driving an N45 interface through magnetics and termination resistors and also provides a pseudo-ECL interface for use with 100Base Fx fast fiber transceivers.

Forth discloses a power management for an electrical power distribution system including:

- a fast Ethernet transceiver which provides a media independent interface for attachment to a 10/100 media access controller, and is capable of directly driving an N45 interface through magnetics and termination resistors and also provides a pseudo-ECL interface for use with 100Base Fx fast fiber transceivers (col. 5, lines 57-67 and col. 6, lines 1-18).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by including IED to monitor and transmit real time information to a user in a timely and efficient manner.

As per claims **8, 16 and 41**, Rosner discloses the invention substantially as claims discussed above.

However, Rosner does not explicitly disclose:

- wherein said processor includes a Hypertext Transfer Protocol (HTTP) server for facilitating communications with an internet browser.

Forth discloses a power management for an electrical power distribution system including:

- wherein said processor includes a Hypertext Transfer Protocol (HTTP) server for facilitating communications with an internet browser (col. 12, lines 19-35 and col. 22, lines 40-51).

Given the teaching of Forth, it would have been obvious to one of ordinary skill in the art to modify Rosner by including a HTTP server thus allowing a user/client to connect to the server to in order to communicate and receive real time information from the IED in a timely and efficient manner.

*Conclusion*

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
July 20, 2006

  
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